THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.1551 of 2007

Date:29.01.2007

Between:

P.Subrahmanyam

.. PETITIONER

AND

The Executive Engineer and others

..RESPONDENTS

ORDER:

The petitioners seek a declaration that the action of the respondents in constructing the temple without following due process of law is illegal, arbitrary and unconstitutional and seek a consequential direction to the respondents not to make any construction in front of the property situated at Sy.No.19/4 of Anakapally Village, Visakhapatnam District.

The petitioners state that they are the owners of 285 and 970 sq.yards respectively in Sy.No.19/4 abutting Anakapalli to Pudimadaka road. There existed a small place of worship by name Polamamba Temple on the road in front of the land of the petitioners. The Roads and Buildings Department undertook widening of the road and clearance of the obstructions existing thereon.

The temple was found to be causing obstruction to the traffic. Having regard to the sensitivity involved in the shifting, respondents 3 to 6, the members of the committee, are said to have been approached for taking necessary steps. They, in turn, are said to have agreed for demolition of the temple, on condition that it would be constructed by going further backward on the road and by reducing the size. The petitioners complain that the proposed construction of the temple would cause obstruction to the access to their plots

and block drainage, which is running through the place.

Sri K.S.R.Murthy, the learned counsel for the petitioners submits that the proposed construction is without any permission and it would interfere with the rights of the petitioners in more respects than one.

The learned Government Pleader for Roads and Buildings obtained instructions at the admission stage and placed a copy of the proceedings, dated 27.01.2007. He contends that except that the size of the temple is reduced and is shifted further backward on the road, no substantial change has taken place, be it as regards location or front portion. He submits that the local people have already come to an understanding to reduce inconvenience to the users of the road and, at the same time, to respect the sentiments of the people and for the baseless apprehension expressed on behalf of the petitioners, the construction need not be impeded.

Sri Nageshwar Reddy, the learned standing counsel for the second respondent submits that the petitioners do not have any right to obstruct as long as no encroachment had taken place into their property and the amenities are kept intact.

The temple is said to have been constructed way back in the year 1942. At a time when total resistance is offered by the persons, who manag places of worship even for the widening of the roads, the members of the committee have come forward to shift the temple, that too, by reducing its size. As a matter of fact, they deserve to be complimented for standing as good examples to be emulated by others.

It is not as if the temple is being constructed for the first time at the location. Except that, it is shifted further backward by one or two feet, virtually there is no change.

Whatever access the petitioners had prior to the proposed construction, they continued to avail the same. So far as the drainage is concerned, as of now, no structures are existing on the plots of the petitioners and the owners of houses did not express any difficulty. Further, there is no reason to believe that the second respondent does not ensure free flow of drain water, even after the proposed construction is brought about. This Court does not find any basis to admit the writ petition.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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29.01.2007

kdl

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